UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte MARK H. GOSSELIN

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Appeal 2017-000750
Application 13/251,604[1]
Technology Center 2600

_____

Before KRISTEN L. DROESCH, JOHN D. HAMANN, and
ALEX S. YAP, *Administrative Patent Judges*.

HAMANN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant files this appeal under 35 U.S.C. § 134(a) from the
Examiner's Final Rejection of claims 1–8 and 10–21. We have jurisdiction
under 35 U.S.C. § 6(b).

We affirm.

THE CLAIMED INVENTION

Appellant's claimed invention relates to delivering full name
information to a mobile device, including by having a terminating mobile
device open a data connection to a service control point ("SCP"), and submit

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[1] According to Appellant, the real party in interest is Cequint, Inc. App. Br.
1.

a query for full name information. *See* Abstract. Claim 1 is illustrative of the subject matter of the appeal and is reproduced below.

> 1. A computer-implemented method of retrieving caller data by code executing during execution of a call handler of a terminating mobile device, the method comprising:
>
> receiving, by the terminating mobile device, a call page from a wireless network, wherein the call page is associated with an incoming call and includes a mobile directory number (MDN) of a calling mobile device;
>
> transmitting, by the terminating mobile device, a query for caller data associated with the MDN to a server over a wireless data connection to the wireless network from which the call page was received, wherein the server is a service control point (SCP) server associated with a carrier of the terminating mobile device; and
>
> storing, by the terminating mobile device, the caller data in a memory of the terminating mobile device.

REJECTIONS ON APPEAL

(1) The Examiner rejected claims 1–3, 7, 8, 10–13, and 15–17 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ruckart (US 2006/0072719 A1; published Apr. 6, 2006) and Schmackpfeffer et al. (US 2011/0319061 A1; published Dec. 29, 2011) (hereinafter "Schmackpfeffer").

(2) The Examiner rejected claims 4–6 and 18–20 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ruckart, Schmackpfeffer, and Nixon (US 6,584,185 B1; issued June 24, 2003) (hereinafter "Nixon").

(3) The Examiner rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ruckart, Schmackpfeffer, and Suzuki (US 2001/0027098 A1; published Oct. 4, 2001).

(4)   The Examiner rejected claim 21 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ruckart, Schmackpfeffer, and Chin et al. (US 2011/0212709 A1; published Sept. 1, 2011) (hereinafter "Chin").

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's contentions that the Examiner erred. In reaching our decision, we consider all evidence presented and all arguments made by Appellant.

We disagree with Appellant's arguments and we incorporate herein and adopt as our own the findings, conclusions, and reasons set forth by the Examiner in (1) the October 20, 2015 Final Office Action ("Final Act." 2–21), (2) the January 7, 2016 Advisory Action ("Adv. Act." 2–11), and (3) the August 23, 2016 Examiner's Answer ("Ans." 2–12). We highlight and address, however, specific findings and arguments below for emphasis.

(1)   Transmitting by the terminating mobile device

Appellant argues the combination of Ruckart and Schmackpfeffer fails to teach or suggest "transmitting, by the terminating mobile device, a query for caller data associated with the MDN to a server over a wireless data connection to the wireless network from which the call page was received, wherein the server is a service control point (SCP) server associated with a carrier of the terminating mobile device," as recited in claim 1. App. Br. 6; Reply Br. 5–7.

As to Ruckart, Appellant argues it "does not teach a mobile device transmitting a query for caller data to any type server." App. Br. 6. Appellant also argues Ruckart's teachings regarding a SCP server teach that

SCP servers "are strictly limited to data base lookup and routing services, neither of which includes receiving queries for caller data from terminating mobile devices." App. Br. 7 (citing Ruckart ¶ 29); *see also id.* (quoting October 13, 2015 Declaration of Ronald A Hume (hereinafter "Hume Declaration") ¶ 4 ("[A]n SCP does not provide, by definition, a wireless data channel communication interface for communication with a terminating mobile device . . . .")).

As to Schmackpfeffer, Appellant argues it likewise "fails to disclose or suggest a mobile device transmitting a query to an SCP server associated with a carrier of the mobile device." App. Br. 8. Appellant argues Schmackpfeffer teaches transmitting a query from a mobile phone to a server, but does not teach that the server (i) is a SCP server and (ii) is associated with the mobile device's carrier. App. Br. 8 (citing Schmackpfeffer Fig. 1; ¶¶ 36–37). As to being a SCP server, Appellant also argues that Schmackpfeffer's teachings that the server can use the SS7 protocol does not teach or suggest that the server is a SCP server. App. Br. 8 (citing Schmackpfeffer Fig. 1; ¶¶ 36–37). As to being associated with the mobile's carrier, Appellant argues Schmackpfeffer's server sends queries to "'the SS7 network for wireless telephone numbers from wireless carriers,' thus suggesting that the query server is not itself associated with any wireless carrier." App. Br. 8 (citing Schmackpfeffer ¶ 62). Appellant also relies on the Hume Declaration to argue (i) a SCP server is "one of three defined network elements of the SS7 telecommunications standard," (ii) a "SCP operating with SS7 communications does not have a data channel interface to maintain a data connection with the wireless carrier network in communication with a terminating mobile device," and (iii) the "wireless

interface for data communications on a terminating mobile device is typically IS95 on CDMA or ABIS on the GSM interface, so an SS7 query from [a] handset is not possible." App. Br. 8 (citing Hume Declaration ¶ 3).

The Examiner finds that the combination of Ruckart and Schmackpfeffer teaches or suggests the disputed limitation. Ans. 4–6. The Examiner finds Ruckart teaches or suggests transmitting a query for caller data associated with the MDN from a central office's switch to a SCP server on the network over a data connection. *See* Ans. 4 (citing Ruckart Figs. 1–3; ¶¶ 35–36); *see also id.* (citing Ruckart ¶¶ 24, 29 (finding Ruckart teaches SCP servers can be used for "data base look up and routing services that take place prior to the logical completion of the call, i.e., the provision of a ringing signal to the called subscriber line and ring back to the calling subscriber")).

As to Schmackpfeffer, the Examiner finds it teaches or suggests that a terminating mobile device can send a query seeking the calling party's ID information to a server on the network using the same data network connection as the incoming call request prior to the voice connection being completed (i.e., the call being answered). *See* Ans. 4–5 (citing Schmackpfeffer Figs. 1, 5, 10; ¶¶ 8, 80–83); Final Act. 3–4 (citing Schmackpfeffer ¶¶ 8, 80–83, 108–111). The Examiner finds Schmackpfeffer also teaches or suggests that the queried server can support the SS7 protocol and functions to receive queries from a mobile device and to provide information (e.g., caller ID information) to the mobile device in response. Ans. 5–6 (citing Schmackpfeffer ¶¶ 8, 36–37). The Examiner also finds that the queried server is associated with a carrier of the terminating mobile device. Ans. 5, 8 (citing Schmackpfeffer ¶¶ 8, 36–37).

We agree with the Examiner's findings, including that the combined teachings of Ruckart and Schmackpfeffer teach, or at least suggest, the disputed limitation. For example, we agree that Ruckart teaches or suggests transmitting a caller ID query from a network switch to a SCP server on the network. *See* Ruckart Figs. 1–3; ¶¶ 35–36. We also agree that Schmackpfeffer teaches or suggests having a terminating mobile device query a networked server using the same wireless connection as the incoming call request prior to the user answering the call. *See* Schmackpfeffer Figs. 1, 5, 10; ¶¶ 8, 80–83, 108–111. We also agree with the Examiner that Schmackpfeffer teaches or suggests that the queried server is "associated with a carrier of the terminating mobile device" under the broadest reasonable interpretation of the phrase — for example, the server can be queried via the wireless channel provided by the mobile's carrier for information about a call routed, at least in part, via the carrier, and thus, is "associated" with the carrier. *See* Schmackpfeffer ¶¶ 8, 36–37. Furthermore, Schmackpfeffer's teachings that the queried server can support the SS7 protocol — which defines <u>three</u> network elements, including SCPs (*see* Hume Declaration ¶ 3) — at least suggests that the queried server can be a SCP server. *See, e.g.*, Schmackpfeffer ¶¶ 36–37.

Appellant incorrectly focuses on Ruckart and Schmackpfeffer individually instead of addressing persuasively their combined teachings to one of ordinary skill in the art. *See In re Merck & Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) ("Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references"); *see also In re Keller*, 642 F.2d 413, 425 (CCPA 1981) (finding the relevant inquiry is whether the claimed subject matter

would have been obvious to those of ordinary skill in the art in light of the combined teachings of the references). Appellant also too narrowly focuses on specific protocol and wireless structures rather than focusing on how one of ordinary skill in the art would have combined Ruckart and Schmackpfeffer's teachings. *See Keller*, 642 F.2d at 425 ("Combining the *teachings* of references does not involve an ability to combine their specific structures."); *In re Nievelt*, 482 F.2d 965, 968 (CCPA 1973); *see also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 420 (2007) ("[I]n many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle."); *In re Preda*, 401 F.2d 825, 826 (CCPA 1968) ("[I]t is proper to take into account not only specific teachings of the references but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.").

Our above reasoning and findings are also applicable to these same arguments Appellant sets forth addressing the rejection of independent claims 8 and 15.

(2) *Teaching away*

Appellant argues that Ruckart teaches away from the claimed SCP server of claim 1 because it fails to teach "an SCP server that is capable of receiving queries for caller data." App. Br. 11. More specifically, Appellant argues Ruckart teaches that "***service control points are only used for data base lookup and routing services***," rather than teaching SCPs can "be modified to perform additional tasks (such as receiving queries for caller data from terminating mobile devices)." App. Br. 11–12 (quoting Ruckart ¶ 29).

The Examiner finds, and we agree, Ruckart teaches an embodiment where SCPs only are used for database lookup and routing, rather than teaching away from modifying SCPs to also provide additional functionality. *See* Ans. 9; *see also* Ruckart ¶ 29; *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004) ("The prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of the[] [disclosed] alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed . . . ."). Moreover, rather than teaching away, Ruckart teaches, or at least suggests, embodiments where SCPs functionality is not so limited. *See* Ruckart ¶ 29 (teaching "**[i]n *most* local exchange carrier networks**, service control points are only used for data base look up and routing services," which at least suggests that some local exchange carrier networks employ SCPs with added functionality) (emphasis added).

Our above reasoning and findings are also applicable to these same arguments Appellant sets forth addressing the rejection of independent claims 8 and 15.

(3)   *Causing the termination of the call*

Appellant argues the combination of Ruckart, Schmackpfeffer, and Chin fails to teach or suggest that "the subscriber query is received from a network control point computing device that is holding termination of a call, and wherein transmitting the CNAM [(caller name)] data to the network control point computing device causes the network control point computing device to terminate the call to the terminating mobile device," as recited in dependent claim 21. App. Br. 16.

As to Ruckart, Appellant begins by arguing that one of ordinary skill in the art, in light of the Specification, would construe "network control

point computing device" to mean "a computing device of a service point that 'manages signal traffic for terminating and connecting calls *between carrier networks* and to their subscribers.'" Reply Br. 10–11 (citing Spec. 1, ll. 7–8). Based on this construction, Appellant argues Ruckart's service switching point ("SSP") fails to teach or suggest a "network control point computing device" because a SSP "is merely a telecommunications switch within the Public Switched Telephone Network (PSTN)," which does not have "any capabilities that relate to functionality for operating with 'carrier networks.'" *Id.* (citing Ruckart ¶¶ 22, 24).

As to Chin, Appellant argues the Examiner incorrectly equates Chin's *releasing* of a call (i.e., ending a call after determining it should be blocked) with the claimed *terminating* of a call (i.e., completing a connection to a terminating device). App. Br. 17 (citing Spec. 5, ll. 12–18 ("The network control point 204 terminates the call to the terminating mobile device 108, which includes transmitting the call page 208 to the terminating mobile device 108."); Chin claims 1, 7, 14).

The Examiner finds the combination of Ruckart, Schmackpfeffer, and Chin teaches or suggests the disputed limitation. Ans. 11–12; Final Act. 13; Adv. Act. 9–10. The Examiner finds Ruckart teaches or suggests that a SCP can receive a user query (e.g., a query seeking caller ID information) from a network control point (e.g., a switch/SSP associated with the central office of a terminating telephone) that is holding termination of a call. *See* Ans. 11–12 (citing Ruckart ¶¶ 33–34) (teaching, among other things, that SCP 42 receives from terminating switch 12 a request for caller ID information of a calling party). As to Chin, the Examiner finds it teaches or suggests releasing or terminating a call to a terminating mobile based on the results of

a caller ID query received by a terminating switch. Adv. Act. 9–10 (citing Chin Fig. 4; ¶¶ 7, 28–31) (finding the returned caller data "triggers a release/termination of the call to the terminating mobile device").

We agree with the Examiner's findings and adopt them as our own. For example, we agree that Ruckart teaches or suggests a SCP receiving a subscriber query (i.e., a query for caller ID services) from a network control point (i.e., a terminating SSP) that is holding termination of a call (i.e., the terminating SSP does not complete the connection while obtaining the caller ID information). *See* Ruckart ¶¶ 33–34; Figs. 2–3). Furthermore, we find the broadest reasonable interpretation for network control point computing device to include Ruckart's switch, which connects calls between parties, including a calling party associated with one exchange and a called party associated with another exchange. *Id.* We also find that Appellant does not provide a sufficient basis to support Appellant's proffered, narrower construction. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc) (citations omitted) (finding although claims are to be interpreted broadly but reasonably in light of the specification, one nonetheless must not import limitations from the specification into the claims); *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004) (finding a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment).

As to Chin, we agree with the Examiner that it teaches, or at least suggests, releasing (i.e., not establishing the call) or terminating a call (i.e., completing the call connection) to a terminating mobile based on the results of a caller ID query received by a terminating switch — for example, if

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sufficient caller ID information (i.e., CNAM data) is received by the terminating switch, the terminating switch would terminate the call to the terminating mobile. *See* Chin Fig. 4; ¶¶ 7, 28–31.

Accordingly, we agree with the Examiner that these combined teachings, teach or suggest the disputed limitation.

CONCLUSION

Based on our findings and reasoning above, we sustain the Examiner's rejection of independent claims 1, 8, and 15, as well as dependent claims 2, 3, 7, 10–13, 16, and 17, as Appellant do not provide separate arguments for their patentability. We also sustain the Examiner's (i) rejection of dependent claims 4–6 and 18–20 and (ii) rejection of dependent claim 14, as Appellant do not provide separate arguments for their patentability. Based on our findings and reasoning above, we also sustain the Examiner's rejection of dependent claim 21.

DECISION

We affirm the Examiner's decision rejecting claims 1–8 and 10–21.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED